

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MIGUEL NIEVES MONTES,

Petitioner,

v.

ORLANDO RODRIGUEZ,

Respondent.

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Civil Action No. 16-9170 (JMV)

OPINION

VAZQUEZ, United States District Judge

On December 12, 2016, Petitioner Miguel Nieves Montes filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (ECF No. 1), challenging his prolonged detention since June 2, 2016, by U.S. Immigration and Customs Enforcement (“ICE”). (ECF No. 1 at 2.) Respondent filed an Answer, (ECF No. 5), and the Court ordered supplemental briefing. (ECF No. 7.) Respondent notified the Court of Petitioner’s change in custody status (ECF No. 9), and then submitted the Declaration of Marcello A. Arpino, Deportation Officer for ICE. (ECF No. 10-1.) Arpino declares that, according to a query of ICE databases, Petitioner was removed via ICE Air Operations Charter to Mexico on March 8, 2017, after the BIA stated that there was no appeal of the IJ’s January 30, 2017 removal order. (*Id.*, ¶¶3-5.) Respondent contends the habeas petition is moot. (ECF No. 10 at 1.)

A habeas petition “generally becomes moot when [a petitioner] is released from custody” because there is no longer “an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.” *Vasquez v. Aviles*, 639 F. App’x 898, 902 (3d Cir. 2016) (quoting *DeFoy v. McCullough*, 393 F.3d 439, 442 (3d Cir. 2005)). The present petition no longer

presents a case or controversy under Article III, § 2 of the United States Constitution because Petitioner is no longer detained by ICE. *See id.* (finding petition moot where there were no collateral consequences that could be addressed by success on the petition after removal) (citing *Abdala v. I.N.S.*, 488 F.3d 1061, 1064 (9th Cir. 2007)). Therefore, the petition is dismissed as moot.

An appropriate Order follows.

Date April 21, 2017
At Newark, New Jersey

s/ John Michael Vazquez
JOHN MICHAEL VAZQUEZ
United States District Judge